

UNITED STATES DISTRICT COURT  
SOUTHERN DISTRICT OF NEW YORK

-----X  
United States of America, :  
Plaintiff, :  
: 20 Cr. 369-01 (LGS)  
-against- :  
: ORDER  
JOSE CESPEDES, :  
Defendant, :  
-----X

LORNA G. SCHOFIELD, District Judge:

WHEREAS, on August 12, 2020, Defendant Jose Cespedes filed a motion for pre-trial release on conditions pursuant to 18 U.S.C. § 3142 (the “Motion”) (*see* Dkt. No. 20).

WHEREAS, in light of the COVID-19 pandemic, it is unlikely that Defendant can be physically produced for an in-person hearing on his Motion. However, the Second Circuit has recognized, in cases such as *United States v. Salim*, 690 F.3d 115 (2d Cir. 2012), that a defendant can knowingly and voluntarily waive his right to be physically present at a hearing. A hearing on the Motion will proceed only if Defendant waives physically appearing. If Defendant chooses not to waive, the hearing will be rescheduled for a later date. It is hereby

**ORDERED** that as soon as possible but no later than **August 17, 2020**, the parties shall file a joint letter stating whether they consent to the Court conducting this proceeding via videoconference and/or telephone conference. If Defendant consents and if feasible, Defendant should sign and submit the attached waiver of personal appearance form. It is further

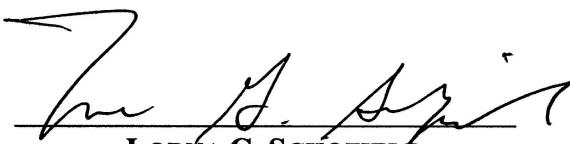
**ORDERED** that the Government shall file a response to the Motion by **August 19, 2020**.

It is further

**ORDERED** that, subject to the parties’ consent, a hearing on the Motion is scheduled for

**August 24, 2020 at 10:30 a.m.** and will be conducted via videoconference. Counsel for the Government and for Defendant Cespedes are directed to appear and will be provided with call-in instructions via email. Essex County Jail is directed to produce Defendant Cespedes for the hearing. Members of the public may attend by dialing the audio-only line, (888) 363-4749, using Access Code 558-3333. In the event the video technology does not function as expected, Defendant and counsel also shall call this number.

Dated: August 14, 2020  
New York, New York



LORNA G. SCHOFIELD  
UNITED STATES DISTRICT JUDGE

April 2, 2020

UNITED STATES DISTRICT COURT  
SOUTHERN DISTRICT OF NEW YORK

-----X  
UNITED STATES OF AMERICA

-v-

**WAIVER OF RIGHT TO BE PRESENT  
AT CRIMINAL PROCEEDING**

Defendant.

-----X-CR-\_\_\_\_\_(\_\_\_\_)(\_\_\_\_)

**Check Proceeding that Applies**

\_\_\_\_ Arraignment

I have been given a copy of the indictment containing the charges against me and have reviewed it with my attorney. I understand that I have a right to appear before a judge in a courtroom in the Southern District of New York to confirm that I have received and reviewed the indictment; to have the indictment read aloud to me if I wish; and to enter a plea of either guilty or not guilty before the judge. After consultation with my attorney, I wish to plead not guilty. By signing this document, I wish to advise the court of the following. I willingly give up my right to appear in a courtroom in the Southern District of New York to advise the court that:

- 1) I have received and reviewed a copy of the indictment.
- 2) I do not need the judge to read the indictment aloud to me.
- 3) I plead not guilty to the charges against me in the indictment.

Date:

\_\_\_\_\_  
Signature of Defendant

\_\_\_\_\_  
Print Name

\_\_\_\_

Bail Hearing

I am applying or in the future may apply for release from detention, or if not detained, for modification of the conditions of my release from custody, that is, my bail conditions. I understand that I have a right to appear before a judge in a courtroom in the Southern District of New York at the time that my attorney makes such an application. I have discussed these rights with my attorney and wish to give up these rights for the period of time in which access to the courthouse has been restricted on account of the COVID-19 pandemic. I request that my attorney be permitted to make applications for my release from custody or for modification of the conditions of my release even though I will not be present, and to make such applications in writing or by telephone in my attorney's discretion.

Date:

\_\_\_\_\_  
Signature of Defendant

\_\_\_\_\_  
Print Name

\_\_\_\_ Conference

I have been charged in an indictment with violations of federal law. I understand that I have a right to be present at all conferences concerning this indictment that are held by a judge in the Southern District of New York, unless the conference involves only a question of law. I understand that at these conferences the judge may, among other things, 1) set a schedule for the case including the date at which the trial will be held, and 2) determine whether, under the Speedy Trial Act, certain periods of time should be properly excluded in setting the time by which the trial must occur. I have discussed these issues with my attorney and wish to give up my right to be present at the conferences. By signing this document, I wish to advise the court that I willingly give up my right to be present at the conferences in my case for the period of time in which access to the courthouse has been restricted on account of the COVID-19 pandemic. I request that my attorney be permitted to represent my interests at the proceedings even though I will not be present.

Date:

\_\_\_\_\_  
Signature of Defendant

\_\_\_\_\_  
Print Name

I hereby affirm that I am aware of my obligation to discuss with my client the charges contained in the indictment, my client's rights to attend and participate in the criminal proceedings encompassed by this waiver, and this waiver form. I affirm that my client knowingly and voluntarily consents to the proceedings being held in my client's absence. I will inform my client of what transpires at the proceedings and provide my client with a copy of the transcript of the proceedings, if requested.

Date:

\_\_\_\_\_  
Signature of Defense Counsel

\_\_\_\_\_  
Print Name

**Addendum for a defendant who requires services of an interpreter:**

I used the services of an interpreter to discuss these issues with the defendant. The interpreter also translated this document, in its entirety, to the defendant before the defendant signed it. The interpreter's name is:  
\_\_\_\_\_.

Date:

\_\_\_\_\_  
Signature of Defense Counsel

**Accepted:**

\_\_\_\_\_  
Signature of Judge

Date: